

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.8871 OF 2005

DATED 04.8.2006

BETWEEN:

Shaik Abdul Hafeez ... **petitioner**

And

The District Collector-cum-Special Officer, Municipal Corporation, Karimnagar.

And another ... **Respondents.**

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.8871 OF 2005

ORDER:

Heard both the counsel.

This Court ordered notice before admission on 21.4.2005 and rule nisi was issued on 6.6.2005.

The writ petition is filed for a writ of mandamus declaring the action of the respondents herein in not disposing of the petitioner's representation dated 2.4.2005 in respect of ratification of construction of the compound wall of the petitioner's house bearing Old No.3.5.132 (New 3.5.135) situated at Osmanpura, Karimnagar town as illegal, arbitrary and contrary to law and consequently direct the respondents not to interfere with the construction of compound wall while directing them to dispose of the said representation forth with and pass such other suitable orders.

It is stated that the petitioner is absolute owner and possessor of the house No.3-5-135 corresponding to old Municipal No.3-5-70 with open place situated at Osmanpura, Karimnagar town. It is also stated that the petitioner had constructed the said house with the permission granted by the then Karimnagar Municipality vide permission bearing No.EA/80/G1/76 dated 31.1.1976. It is further stated that the subordinates of the Commissioner, the then Karimnagar Municipality came to his house on 15.3.2003 and asked him to produce the ownership particulars of his house and other relevant documents. It is stated that the petitioner had submitted the Xerox copies of the

sanctioned plan and permission and its order and other relevant papers. The same was intimated to the Station House Officer, I-Town Police Station. After submission of the relevant documents, the Commissioner of the then Karimnagar Municipality having satisfied with the said documents did not raise further objections. It is further stated that on 28.1.2004, the Commissioner, the then Karimnagar Municipality came along with his subordinates and police and demolished part of the compound wall, which is shown in the sanctioned plan and copies of which were produced before the Commissioner, in spite of the petitioner's objection. Aggrieved by the same, the petitioner approached this Court by filing W.P.No.2251 of 2004 and this Court by an order dated 9.2.2004 disposed of the same with the following directions:

“ Since the compound wall of the petitioner was already demolished, it is open for the petitioner to move the first respondent seeking permission to construct the compound wall. On making such an application, the respondent shall pass a reasoned order specifying whether the petitioner is entitled to construct the compound wall or the subject land is an encroachment”

It is further stated that the petitioner made an application to the Commissioner, Municipal Council, Karimnagar as early as on 24.2.2004 enclosing a copy of the order of this Court and requesting to permit him to construct the compound wall which was demolished by the officials of the Karimnagar Municipality. But, no orders had been passed by the Karimnagar Municipality on his application dated 24.2.2004. It is further stated that keeping in view the security and safety of the house, the petitioner constructed the compound wall and in the meantime, the Karimnagar Municipality was upgraded as Karimnagar Municipal Corporation, so the petitioner made an application before the 1st respondent who is the Special Officer of Karimnagar Municipal Corporation and competent authority,

requesting him to ratify and regularize the said construction of compound wall, treating the said construction under presumption of permitting him to construct the said compound wall, in order to avoid any further demolition of the said compound wall. It is also submitted that no orders had been passed on the said application of the petitioner dated 2.4.2005 and unless the said construction of compound wall is ratified or regularized, there is possibility of demolishing the said compound wall by the concerned authorities of Karimnagar Municipal Corporation, in which case, the petitioner will suffer irreparable loss and injury. It is further stated that on account of earlier highhanded action of demolition of his compound wall by the then Commissioner of Karimnagar Municipality and his subordinates without any notice whatsoever to the petitioner, he was put to heavy loss and unless further demolition of the said compound wall is prevented, the petitioner will be put to great hardship and in such circumstances, the present writ petition is filed.

It is stated that the representation dated 2.4.2005 made to the second respondent is said to be pending. In the light of the prior directions issued by this Court and also in the light of the submissions made in the affidavit filed in support of the writ petition, the present writ petition be disposed of with the following direction:

The second respondent to consider the representation of the petitioner dated 2.4.2005 in accordance with law within four weeks from the date of the receipt of a copy of this order and till a decision is taken in this regard, status quo as earlier directed on 21.4.2005 to be maintained.

The writ petition is accordingly disposed of. No order as to costs.

04.8.2006.

mdaa